

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
ADMINISTRATIVE LAW JUDGE LAUREN ESPOSITO**

**LEWIS FOODS OF 42ND STREET, LLC, A
McDONALD'S FRANCHISEE, AND
McDONALD'S USA, LLC, JOINT EMPLOYERS
et al.**

and

**FAST FOOD WORKERS COMMITTEE AND
SERVICE EMPLOYEES INTERNATIONAL
UNION, CTW, CLC, et al.**

**Cases 02-CA-093893, et al.
04-CA-125567, et al.
13-CA-106490, et al.
20-CA-132103, et al.
25-CA-114819, et al.
31-CA-127447, et al.**

**RMC ENTERPRISES LLC; RMC LOOP ENTERPRISES; LOFTON & LOFTON
MANAGEMENT V, INC.; AND WRIGHT MANAGEMENT, INC.'S RESPONSE IN
OPPOSITION TO COUNSEL FOR THE GENERAL COUNSEL'S MOTION FOR A
SCHEDULING ORDER AND FOR A CONTINUANCE OF THE MAY 26, 2015
HEARING DATE**

Respondent franchisees RMC Enterprises LLC; RMC Loop Enterprises; Lofton & Lofton Management V, Inc.; and Wright Management, Inc. (collectively "Franchisees"), who are the operators of McDonald's brand restaurants named as Respondents in charges from Region 13, object to the General Counsel's requested continuance of the May 26, 2015 hearing date. Franchisees have reviewed the response filed by McDonald's USA, LLC ("McDonald's") in opposition to the General Counsel's request for a continuance. For the reasons set forth in that motion and the additional reasons set forth below, Franchisees oppose the General Counsel's motion and submit that the trial should begin as scheduled on May 26, 2015.

The mass consolidation of charges and respondents, which the Franchisees previously opposed, already all but guarantees that this matter will take the better part of a decade to resolve. The General Counsel's motion, if granted, will only further push out this resolution. The charges alleged against the Franchisees certainly do not warrant the time and expense of a decade's worth of litigation. This litigation has proved costly and disruptive for the Franchisees,

who operate as small business owners, and any further delay would only further exacerbate this burden. Franchisees seek to resolve this litigation as quickly and efficiently as possible, and therefore General Counsel and the Charging Parties should proceed to try these cases on the record without additional delay.

Additionally, as stated in detail by McDonald's in its opposition papers, neither the Counsel for the General Counsel nor the Charging Parties have articulated any cognizable reason to delay this matter, and their stated reason – delay in subpoenaed documents – does not hold up to scrutiny. In Board proceedings there is no pre-trial discovery; proceedings are not delayed while documents are being produced in response to a broad subpoena. *See* NATIONAL LABOR RELATIONS BOARD, *Casehandling Manual* at § 10292.4 (“The Federal Rules of Civil Procedure providing for compulsory pretrial discovery have been held not applicable to Board proceedings. . . . Any attempt to use such discovery should be resisted.”).

CONCLUSION

For the foregoing reasons, Franchisees contend that the ALJ should deny the General Counsel's Motion in its entirety. Instead, the ALJ should order the hearing to proceed as scheduled on May 26, 2015, with the General Counsel presenting his case in chief on that date, continuing on a day-to-day basis thereafter.

Dated: May 15, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned, an attorney, affirms under penalty of perjury that on May 15, 2015, he caused a true and correct copy of Franchisee's Response in Opposition to the Counsel for the General Counsel's Motion for a Scheduling Order and for a Continuance of the May 26, 2015 Hearing Date, to be electronically filed using the National Labor Relations Board's website, and thereafter to be served upon counsel for the parties by e-mail at the following addresses designated for this purpose:

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